

SMALL COMMERCIAL EXEMPTION STUDY COMMITTEE

In January 2010, as a follow-up to the fiscal year 2010 property tax classification hearing, the Board of Selectmen created a Small Commercial Exemption Study Committee. The charge of the committee was to review the current provisions of the Small Commercial (Property Tax) Exemption in G.L. Chapter 59§5I, to determine the taxpayer and community benefits available and whether those benefits, in the form of limited tax exemption, are available to small independently owned businesses in Brookline in a fair and equitable manner. The committee was also asked examine the possible amendment to the current statutory language through home-rule petition or otherwise, if necessary, to allow the limited tax exemption to be applied to certain property uses based on the size and type of business occupying the property in a more fair and equitable manner.

The Selectmen appointed the following committee members: Kenneth Goldstein, Chair, Ronny Sydney, Jonathan Stearns, Hsiu-Lan Chang, Dana Brigham, Ken Lewis, Jerry Kampler, Michael Traister, Roger Lipson, Jerry Katz, Gary McCabe (Assessor).

The committee met five times; in, March, April, May, June and September, 2010 for a total of 7 ½ hours.

The committee reviewed the existing statutory language and determined that the current law would benefit some small business taxpayers in Brookline, but would exclude other deserving small businesses because either the property they occupied did not fall below the maximum assessed value limit of one-million dollars, or the business employed more than the maximum full-time employee limit of ten, or the small business shared a property with a non-qualifying business.

The committee concluded that the existing law would not apply uniformly to similar small business in Brookline. The existing law also does not include a provision that assigns tax saving (pass-through) to qualifying tenants, something the committee would like to see.

The committee therefore proposes that the existing language be changed to address the inequities created by the limitations of the current qualifying criteria and to be more useful to the Town of Brookline as a tax policy tool to promote and support small business development. The committee has drafted the language presented below, with changes tracked for reference. The committee seeks the support and guidance of the Board of Selectmen in bringing these much needed and desired amendments to the local and state legislative bodies.

Proposed Changes to G.L Chapter 59, section 5I

Section 5I. With respect to each parcel of real property classified as class three, commercial, in each city or town certified by the commissioner to be assessing all property at its full and fair cash valuation, and at the option of the board of selectmen or mayor, with the approval of the city council, as the case may be, there shall be an exemption equal to not more than ten percent of the value of those portions of the parcel, as occupied by a Qualifying Small Business; provided, however, that such exemption shall only apply when ~~to~~(i) that portion of the property qualifying hereunder ~~that~~ is occupied by the owner of the property or (ii) that portion of the property qualifying hereunder is occupied by a tenant under a 'net lease' such that the tenant's financial obligations will be reduced by the full amount of the exemption attributable to the tenants leased premise. ~~a business that, at that location and all others combined, had an average annual employment of no more than ten during the previous calendar year as certified by the director of labor and workforce development or, where the business is a sole proprietorship or partnership not subject to the provisions of chapter 151A, as determined by the assessors, and the assessed valuation of which is less than one million dollars.~~ This exemption shall be in addition to any exemptions allowable under section five. The value of exemptions granted under this section shall be borne by the combined value of class three commercial property and class four industrial property.

A Qualifying Small Business shall be of the type, size and structure as shall be identified by the board of selectmen or mayor, with approval of the city council, as the case may be.

The assessors for the city or town adopting such exemption , shall determine which parcels, in whole or in part, qualify for such exemption and shall adopt such guidelines, or procedures and applications as may assist them in making such determinations. The assessors may require that a property owner or business operator produce reasonable documentation such as leases and copies of utility bills as may assist them in making in making such determinations.

In cities and towns in which an exemption is made available hereunder, a taxpayer aggrieved by the failure to receive such commercial exemption may apply for such commercial exemption to the assessors, in writing, on a form approved by the commissioner within three months after the date on which the bill or notice of assessment was sent.

A timely application filed hereunder shall, for the purposes of this chapter, be treated as a timely filed application pursuant to section 59.